

Order

Michigan Supreme Court
Lansing, Michigan

May 3, 2011

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2010-11

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

Proposed Amendment of
Rule 2.511 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.511 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at: www.courts.michigan.gov/supremecourt/resources/administrative/ph.htm.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and
deleted text is shown by strikeover.]

Rule 2.511 Impaneling the Jury

(A)-(B)[Unchanged.]

- (C) Examination of Jurors; Discharge of Unqualified Juror. The court may conduct the examination of prospective jurors or may permit the attorneys to do so. When the court finds that a person in attendance at court as a juror is not qualified to serve as a juror, the court shall discharge him or her from further attendance and service as a juror. Exemption from jury service is the privilege of the person exempt, not a ground for challenge.
- (D) Challenges for Cause. The parties may challenge jurors for cause, and the court shall rule on each challenge. A juror challenged for cause may be directed to answer questions pertinent to the inquiry. It is grounds for a challenge for cause that the person:

~~(1) is not qualified to be a juror;~~

~~(2)~~(1) is biased for or against a party or attorney;

~~(3)~~(2) shows a state of mind that will prevent the person from rendering a just verdict, or has formed a positive opinion on the facts of the case or on what the outcome should be;

~~(4)~~(3) has opinions or conscientious scruples that would improperly influence the person's verdict;

~~(5)~~(4) has been subpoenaed as a witness in the action;

~~(6)~~(5) has already sat on a trial of the same issue;

~~(7)~~(6) has served as a grand or petit juror in a criminal case based on the same transaction;

~~(8)~~(7) is related within the ninth degree (civil law) of consanguinity or affinity to one of the parties or attorneys;

~~(9)~~(8) is the guardian, conservator, ward, landlord, tenant, employer, employee, partner, or client of a party or attorney;

~~(10)~~(9) is or has been a party adverse to the challenging party or attorney in a civil action, or has complained of or has been accused by that party in a criminal prosecution;

~~(11)~~(10) has a financial interest other than that of a taxpayer in the outcome of the action;

~~(12)~~(11) is interested in a question like the issue to be tried.

~~Exemption from jury service is the privilege of the person exempt, not a ground for challenge.~~

(E)-(H)[Unchanged.]

Staff Comment: Because MCL 600.1337 requires a court to discharge an unqualified juror regardless whether a party challenges the juror for cause, the proposed amendment of MCR 2.511 would eliminate the provision from the list of challenges that may be made for cause, and instead would clarify that the discharge must be made when

the court learns that the juror is not qualified to serve. This clarification would foreclose the possibility that an unqualified juror could be allowed to sit because no one challenged his or her qualification.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on this proposal may be sent to the Supreme Court Clerk in writing or electronically by September 1, 2011, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2010-11. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 3, 2011

Corbin R. Davis

Clerk